IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1192 of 2005 (M/B)

Bhagwati Prasad Badoni,
S/o Sri Tej Ram Badoni,
R/o Kothharh, Srinagar (Garhwal),
District Pauri Garhwal. ….. Petitioner

Versus

1. State of Uttaranchal,
through Secretary, Education,
Dehradun.
2. District Education Officer, Pauri,
Pauri Garhwal.
3. Principal, Govt. Inter College,
Srinagar (Garhwal),
Pauri Garhwal.
4. Smt. Basanti Devi W/o Jeet Singh,
R/o Kothhath, Srinagar,
Garhwal.
5. Smt. Bhagwana Devi W/o Ram Prasad,
R/o Kothhath, Srinagar,
Garhwal.
6. Sri Keshwar Singh Negi S/o Ranjeet Singh,
R/o Kothhath, Srinagar,
Garhwal. …… Respondents.

Mr. Atul Bahuguna, Advocate for the petitioner.
Mr. N.C. Gupta, Standing Counsel for the State of Uttaranchal.
Mr. Pankaj Purohit, Advocate for respondents Nos. 4 and5.
Mr. G.S. Negi, Advocate for respondent No. 6.

JUDGMENT

Coram: Hon. Rajeev Gupta, C.J.
Hon. P.C. Pant, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. Atul Bahuguna, Advocate for the petitioner.

Mr. N.C. Gupta, Standing Counsel for the State of Uttaranchal

Mr. Pankaj Purohit, Advocate for respondents Nos. 4 and 5.

Mr. G.S. Negi, Advocate for respondent No. 6.

2. The petitioner has filed this writ petition for the following reliefs:

"A. Issue a writ, order or direction in the nature of mandamus directing the respondents to take action against the unauthorized occupants who have constructed the houses over the land of respondent no. 3 and also against those who encroached the land by various means.

B. Issue a writ, order or direction in the nature of mandamus directing the respondents to construct the boundary wall after demarcation of land of respondent No. 3.

C. Issue any suitable writ, order or direction in the nature of which this Hon'ble Court may deem fit and proper in the circumstances of the case.

D. Award the cost of the writ petition to the petitioner."

3. In the counter affidavit filed on behalf of respondents Nos. 2 and 3, paragraphs 3C and 3D read as follows:

> "C. That in pursuant to the application of the answering respondent, the demarcation took place by the revenue authority and report of demarcation dated 5-11-2005 was submitted, wherein, it was found that out of the land of the said college, Smt. Basanti Devi W/o Sri Jeet Singh has encroached upon the land of College measuring area 0.020 Hec. Land in plot no. 129, wherein house has been constructed and over the land of part plot no. 129 and 131, a land measuring area 0.040 Hec. has been encroached by Smt. Bhagwana Devi, W/o Ram Prasad by putting barbed wire boundary and another person, namely Smt. Devi Prasad S/o Bala Dutt has also found to be encroached on the land of the College of plot no. 129 measuring area 0.030 Hec. land. Copy of said report of demarcation is being filed herewith and is marked as **Annexure No. C.A. 2** to this counter affidavit.
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> D. That after the said demarcation and report of revenue authority, i.e. Patwari, the answering respondent has moved an application dated 07-11-2005 before Sub Divisional Magistrate, Sri Nagar to initiate eviction proceeding against those encroacher. Copy of said application dated 7-11-2005 is being filed herewith and is marked as **Annexure No. C.A. 3** to this counter affidavit.

4. From the averments made in the above paragraphs, it is apparent that the authorities are taking appropriate action against the alleged encroachers in accordance with law. The petitioner has not filed any rejoinder affidavit to this counter affidavit.

5. In this view of the matter, we deem it quite unnecessary to keep the writ petition pending.

6. The writ petition, therefore, is closed leaving it open to the petitioner to get it revived, if the above proceedings initiated against the alleged encroachers are not taken to a logical end.

(P.C. Pant, J.) **(Rajeev Gupta, C.J.)**
27.02.2006 **27.02.2006**

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